

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CUPERTINO UNION SCHOOL  
DISTRICT.

OAH Case No. 2016021008

ORDER PARTIALLY GRANTING  
REQUEST FOR CONTINUANCE AND  
SETTING MEDIATION, PREHEARING  
CONFERENCE AND DUE PROCESS  
HEARING DATES

On June 20, 2016, the parties filed a joint request to continue the hearing dates in this matter, based upon the parties' wish to explore settlement through mediation. The parties request mediation be scheduled for July 13, 2016, and the hearing scheduled for sometime after this date.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Denied. This matter has been pending since February 22, 2016. The parties have requested to reschedule mediation a total of five times, including the current request. All previous requests have been granted and then subsequently cancelled by Student, Cupertino or both parties. The parties have not established good cause to continue the

currently scheduled prehearing conference and due process hearing dates beyond July 13, 2016. However, recognizing the importance of mediation, the request to reschedule mediation is granted one last time. The mediation is scheduled on June 28, 2016, the date previously set for the first day of hearing. The hearing shall begin on June 29, 2016.. The matter is scheduled as follows:

Mediation: June 28, 2016, at 9:30 a.m.

Due Process Hearing: June 29, 2016 at 9:30 a.m., June 30, 2016 at 9:00 a.m., and July 5, 2016 at 1:30 p.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: June 20, 2016

DocuSigned by:

*Margaret Broussard*

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MARGARET BROUSSARD

Presiding Administrative Law Judge  
Office of Administrative Hearings